

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PRESTON GARDNER,

Petitioner, No. 2:12-cv-1927 EFB P

VS.

E. VALENZUELA,

Respondent. **ORDER**

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. See 28

U.S.C. § 2254. He seeks leave to proceed *in forma pauperis*. See 28 U.S.C. § 1915. However, petitioner has commenced this action in the wrong district.

In a habeas action, venue is proper in either the district of confinement or the district of conviction. 28 U.S.C. 2241(d). Petitioner was convicted in Contra Costa County, but is incarcerated in San Luis Obispo County. Dckt. No. 1 at 1. Thus, the Eastern District is not a proper venue for this action.

The petition concerns the denial of parole. As witnesses and evidence necessary for the resolution of petitioner's application are more readily available in the county of incarceration, the court will transfer this action to the United States District Court for the Central District of California. *See Rule 12, Rules Governing § 2254 Cases; 28 U.S.C. 1404(a); Braden v. 30th*

1 *Judicial Circuit Court*, 410 U.S. 484, 499 n. 15 (1973). The court declines to take action on
2 petitioner's application to proceed *in forma pauperis*.

3 Accordingly, it is ORDERED that this action is transferred to the Central District of
4 California.

5 DATED: October 9, 2012.


6 EDMUND F. BRENNAN
7 UNITED STATES MAGISTRATE JUDGE
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